

EXHIBIT T

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 CHARLESTON DIVISION

4 *****

5 IN RE: ETHICON, INC. MDL No. 2327
6 PELVIC REPAIR SYSTEM,
7 PRODUCTS LIABILITY LITIGATION

8 *****

9 THIS DOCUMENT RELATES TO ALL CASES

10 *****

11 CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

12

13 VIDEOTAPED DEPOSITION OF GREGORY R. JONES

14 Tuesday, August 20th, 2013

15 9:05 a.m.

16

17

18 Held At:

19 Radisson Hotel

20 200 Genesee Street

21 Utica, New York

22

23

24 REPORTED BY:

25 Maureen O'Connor Pollard, RPR, CLR

1 Q. Would you agree with me that Ethicon,
2 with respect to the TVT system, had a
3 responsibility to train physicians before using
4 their device?

5 A. No.

6 MR. COMBS: Object to the form.

7 BY MR. BALEFSKY:

8 Q. Sorry. Let me ask that again, we had
9 objection from your counsel.

10 Would you agree that Ethicon, with
11 respect to the TVT system, had a responsibility
12 to train physicians before they used the TVT
13 device?

14 A. No.

15 Q. Now, while you were employed at
16 Ethicon, I assume you kept a custodial file of
17 all of the documents that you generated, and
18 e-mails, etcetera?

19 A. I had a filing system.

20 Q. Could you just explain to me briefly
21 what your filing system was?

22 A. I had an administrative assistant who
23 took care of that.

24 Q. Who was that?

25 A. Her name was Carmen Goble.

1 Q. Carmen, spell her last name?

2 A. G-O-B-L-E.

3 Q. Do you know whether she's still
4 employed by Ethicon or J&J?

5 A. I don't know.

6 Q. When was the last time you had any
7 contact with Ms. Goble?

8 A. Ten years.

9 Q. What type of file system did she
10 maintain for you?

11 A. We had a paper filing system. I'm
12 sure she kept things electronically. We kept
13 the 510(k)s. We kept the regulatory strategies.
14 We filed FDA correspondence with the appropriate
15 510(k)s. We had 510(k)s from other
16 manufacturers. We kept all of our audit
17 reports. Those are the things that come to
18 mind.

19 Q. Did you have a computer at work?

20 A. We did.

21 Q. And I assume you sent e-mails and
22 other correspondence to different people within
23 the organization?

24 A. Yes.

25 Q. And did you have a procedure for

1 saving those?

2 A. Not that I can recall.

3 Q. Did you -- do you recall ever
4 receiving a document that told you not to
5 destroy any of your files with respect to the
6 TVT?

7 A. Not specifically for TVT, but I
8 remember getting those types of notices in
9 general.

10 Q. When you say "in general," were they
11 not for a specific product? Were they for
12 specific products, or were they just general
13 notices?

14 A. Just general notices when there was
15 litigation.

16 Q. Well, the litigation involving a
17 particular product, would it be specific to that
18 product?

19 A. My recollection, we would get a notice
20 when there was a litigation on a particular
21 product.

22 Q. And it would be your procedure to
23 follow that notice, correct?

24 A. Yes.

25 Q. Let me show you a document that we've

1 marked T-3140.

2 (Whereupon, Exhibit Number T-3140,
3 5/22/03 e-mail chain, Bates
4 ETH.MESH.00875544 through 546, was
5 marked for identification.)

6 BY MR. BALEFSKY:

7 Q. I ask you to take a look at that
8 (handing).

9 (Witness reviewing document.)

10 A. Yes. What's your question?

11 BY MR. BALEFSKY:

12 Q. My question is; can you identify the
13 document that I just handed you?

14 A. Yes.

15 Q. And can you tell me what it is?

16 A. Preservation notice from the law
17 department.

18 Q. Do you recall receiving this
19 preservation notice in May of 2003?

20 A. Not specifically.

21 Q. You were employed by the company on
22 May 22nd, 2003?

23 A. I left of the company in 2003, I just
24 don't remember what month.

25 Q. Do you recall whether you left in

1 November of 2003?

2 A. No, I don't.

3 Q. Well, let's assume for a second that
4 you were still employed by Ethicon on May 22,
5 2003, okay?

6 A. Mm-hmm.

7 Q. This e-mail was sent to -- it looks
8 like it was sent to "DL-ETHUSSO, All Ethicon."
9 What does that mean, "All Ethicon"?

10 A. I don't know specifically.

11 Q. So you don't recognize that
12 designation?

13 A. No.

14 Q. Could that -- well, let me ask you
15 this.

16 Do you understand that to mean that
17 this e-mail was sent to all Ethicon employees?

18 A. That would be my guess.

19 Q. Okay. I don't want you to guess.

20 A. That would be -- I don't know what
21 this specific designation means, but that's my
22 answer.

23 Q. Would it be your understanding that
24 this document was sent to all Ethicon employees
25 on May 22nd, 2003?

1 A. I believe so.

2 Q. Now, if you look at the first
3 paragraph of the document, above -- the first
4 page, it says "Please review the document hold
5 notice below and ensure that you do the
6 following."

7 Do you see that?

8 A. Yes.

9 Q. It says "Identify any documents in
10 your possession which may be related to this
11 notice." Right?

12 A. Yes.

13 Q. It says "Appropriately segregate such
14 documents and/or otherwise mark them so that
15 they are preserved from any destruction,"
16 correct?

17 A. Yes.

18 Q. "Keep such documents in a safe place."
19 It was signed by Rita McIntyre.

20 Do you know who Rita McIntyre is?

21 A. I remember.

22 Q. Who was she?

23 A. She was a nurse in our complaint
24 handling department.

25 Q. And then below that it says

1 "Preservation notice. Do not destroy specified
2 documents," right?

3 A. Correct.

4 Q. And down below it says "Re: Hold
5 notice for Kandell versus Ethicon, Inc., et
6 als." It says "Ethicon, Inc. has been named in
7 a lawsuit arising out of the alleged use of
8 TVT."

9 Do you see that?

10 A. Yes.

11 Q. That's the TVT product that you were
12 responsible for, correct?

13 A. Correct.

14 Q. And then it says "Failure to preserve
15 these materials could result in court-imposed
16 penalties or sanctions or both, the company
17 and/or individual employees," correct?

18 A. Correct.

19 Q. And then on Page 2 of the document it
20 talks about the kinds of documents that were
21 required to be preserved, correct?

22 A. Correct.

23 Q. Okay. And assuming you were employed
24 by the company on May 22nd, 2003, you would have
25 abided by this notice, correct?

1 A. Correct.

2 Q. And it says, in the middle of the page
3 there, it says "Subject matters of documents to
4 be preserved," it says "TVT." It says "Hold all
5 documents, memoranda, notes, files, e-mails,
6 etcetera, relating to TVT."

7 A. Yes.

8 Q. And then under Number 3, "Regulatory,"
9 it says "All final draft communications with
10 regulatory authorities regarding the TVT,
11 including FDA correspondence and inspection
12 records, 483's, IND, NDA, BLA and other
13 regulatory files and audit files, including
14 product monograph files (as applicable),"
15 correct?

16 A. Correct.

17 Q. Did you have documents concerning TVT
18 in your possession or control when you last
19 worked at J&J Ethicon?

20 A. I don't recall.

21 Q. Well, if you had received this notice,
22 you would have preserved the documents, correct?

23 A. Yes.

24 Q. Did anyone at Ethicon take an image of
25 the hard drive of your computer on or before

1 your last day of work at Ethicon?

2 A. Not that I can recall.

3 Q. Were any of your work documents
4 transferred from your computer or filing
5 cabinets to another person on or before your
6 last day of work for Ethicon?

7 A. No.

8 MR. BALEFSKY: Counsel, I would -- we
9 were told that Mr. Jones has no custodial file,
10 we were not given any custodial file for
11 Mr. Jones, and I would just make a request that
12 we get it.

13 MR. COMBS: I'll pass that along.
14 We'll make an inquiry into the status of that.
15 Obviously Mr. Jones separated from the company
16 more than half a decade before this litigation
17 started, so I'm sure that probably plays a
18 bearing.

19 BY MR. BALEFSKY:

20 Q. To your knowledge, Mr. Jones, was that
21 litigation hold notice ever rescinded during
22 your time at Ethicon?

23 A. When I was at Ethicon?

24 Q. Yes.

25 A. Not that I can recall.